

## Congressman Nadler Calls on Office of Homeland Security Action on Downtown Environmental Quality

Monday, 25 March 2002

NEW YORK -- Today, in a letter to Director of Homeland Security Tom Ridge, Rep. Jerrold Nadler (D-NY) requested that the Director use the resources of his office to compel the Environmental Protection Agency (EPA) to follow the letter of the law, as well as the counter terrorism policies outlined by the Office of Management and Budget, by immediately performing all necessary environmental remediation of building interiors affected by the collapse of the World Trade Center.

"Your assistance [as the Administration official in charge of terrorism security and response] is essential if the people of New York are to be adequately protected from the consequences of the terrorist attack," wrote Rep. Nadler. "EPA's conduct in New York sets a dangerous precedent. I urge you to ensure the proper implementation of federal laws, policies and procedures governing the response to a terrorist attack that involves the release of hazardous materials so that New Yorkers are protected today, and so that civilian populations in other areas of our country will be protected should they become victims of such an attack in the future."

In the letter, Rep. Nadler cited two new sources of material that bolster the charges he has made in recent weeks in regards to the EPA's response to the cleanup of downtown Manhattan. Specifically, the Congressman found that the Office of Management and Budget's Annual Report to Congress on Combating Terrorism -- released just weeks before the 9/11 attacks -- suggests the EPA's cleanup actions both indoors and outdoors are an essential component in responding to terrorism. Furthermore, EPA Administrator Christine Todd Whitman said herself, on Nov. 28, 2001 in front of the House Appropriations Subcommittee on VA/HUD, that the EPA was assigned lead responsibility in the cleanup of buildings following a terrorist attack. Yet, the EPA still has shirked its responsibility, Rep. Nadler said, and that is what compelled him to write to Director Ridge.

No immediate response was available from Director Ridge's office.

Rep. Nadler has served in Congress since 1992. He represents the 8th Congressional District of New York, which includes parts of Manhattan and Brooklyn. A copy of the letter is attached.

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March 25, 2002

The Honorable Tom Ridge

Office of Homeland Security

White House

Washington, DC 20502

Dear Governor Ridge:

I am writing to request your help, as Assistant to the President in charge of Homeland Security, on a matter of vital importance to the safety and security of United States citizens victimized by a terrorist attack. As the Congressman representing Ground Zero and surrounding areas in New York City, I have spent the last several months trying to prod the EPA into taking appropriate actions to protect the safety of New York residents - actions that are mandated by the provisions of federal law and of the National Contingency Plan, and that have been implemented in previous crises. I have also been trying to determine the precise nature of the EPA's response to the events of September 11th, 2001 in New York City. Unfortunately, I have been able neither to get the EPA to take the necessary and mandated actions to protect the public safety nor to obtain a full accounting of EPA's actions. The only thing that is clear is that the EPA's actions have certainly been inadequate to protect the public safety, as well as an apparent violation of its legal mandates.

As you know, there are laws, policies and procedures in place that govern the federal response to a terrorist attack. On November 28, 2001, Administrator Christine Todd Whitman outlined the EPA's role in counter terrorism activities before the House Appropriations Subcommittee on VA, HUD, and Independent Agencies. Administrator Whitman testified that "Under the provisions of PDD 62, signed by President Clinton in 1998, the EPA is assigned lead responsibility for cleaning up buildings and other sites contaminated by chemical or biological agents as a result of an act of terrorism" (emphasis added). Administrator Whitman went on to say that "This role is a natural fit for EPA's on-scene coordinators, managers who are experienced in assessing contamination in structures, and who have considerable experience at sorting out hazards, quantifying risks, planning and implementing emergency cleanups, and coordinating among other agencies, state and local government, and the private sector." Her testimony is confirmed by an OMB Annual Report to Congress on Combating Terrorism issued just weeks before the September 11th, 2001 terrorist attacks, which states that EPA's expertise in conducting protective cleanup actions is important for a successful Federal response to an act of terrorism. The OMB Report also confirms that EPA responds to an act of terrorism pursuant to existing authorities outlined in the National Response System, which is carried out by On-Scene Coordinators under the framework of the National Contingency Plan.

Unfortunately, the EPA has not carried out these policies in New York in response to the terrorist attack of September 11th, 2001. The EPA has not provided any evidence that it is acting in full accordance with the National Contingency Plan or PDD 62. The EPA has exercised no authority or jurisdiction over indoor building environments in Lower Manhattan. The EPA has allowed the City of New York to take the lead on these matters, and the City has in turn placed the entire burden on individual building owners and residents - a burden residents lack the expertise and, often the financial ability, to bear. As a result, there has been inadequate hazardous materials remediation inside schools, residential and commercial buildings in Lower Manhattan, creating an imminent and substantial danger to public health. I wrote to Administrator Whitman on March 7, 2002, requesting specific information on EPA's actions in New York, and have yet to receive a response. Furthermore, EPA officials have refused to participate in EPA Ombudsman Investigative Hearings I hosted on these matters - a departure from the status quo (in that EPA has participated in every previous EPA Ombudsman Investigative Hearing) in possible violation of the Temporary Restraining Order (TRO) issued by Judge Richard W. Roberts in Federal District Court.

I respectfully request your assistance, as the federal official charged with protecting Homeland Security, in protecting the health and safety of the people of New York, and elsewhere in the country should a future attack occur. As part of your duties in coordinating the removal of hazardous materials in the event of a terrorist attack, please ensure that EPA fulfills its responsibility to ensure adequate remediation of the hazardous materials blasted into thousands of New York City apartments and workplaces by the terrorist attack of September 11th, 2001. In addition, the public welfare requires a full accounting of EPA's response to the terrorist attacks of September 11th in New York, including answers to the questions posed in my letter dated March 7, 2002 (Enclosed). If Administrator Whitman will not respond, please provide the answers to the questions posed in the letter, and take whatever actions necessary to ensure that the EPA complies with the National Contingency Plan and PDD 62 to remediate all buildings contaminated by the collapse of the World Trade Center.

Your assistance is essential if the people of New York are to be adequately protected from the consequences of the

terrorist attack, and if we are to have accountability in our federal government's response. The EPA must act now to protect the health and safety of citizens who experienced the horror of 9/11 first-hand, whose lives were deeply affected, and who now have their safety once again threatened, not by terrorists, but by our own government's dereliction. EPA's conduct in New York sets a dangerous precedent. I urge you to ensure the proper implementation of federal laws, policies and procedures governing the response to a terrorist attack that involves the release of hazardous materials so that New Yorkers are protected today, and so that civilian populations in other areas of our country will be protected should they become victims of such an attack in the future.

Thank you for your prompt attention to this matter.

Sincerely,

Jerrold Nadler

Member of Congress

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